

ENTERED

May 17, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
- BROWNSVILLE DIVISION -**

UNITED STATES OF AMERICA §

V. § CASE NO.: **B-23-CR-206-1****Roberto Lugardo Moreno, Jr.** §

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The Magistrate Judge submits this Report and Recommendation to the District Judge pursuant to 28 U.S.C. § 636(b)(3). This case has been referred, pursuant to General Order No. 15-002, to the United States Magistrate Judge for the taking of a felony guilty plea and the Federal Rule of Criminal Procedure Rule 11 Allocution. All parties have waived the right to plead before a United States District Judge and have executed a consent to proceed before a United States Magistrate Judge.

On **May 17, 2023**, the defendant and counsel appeared before the Magistrate Judge, who addressed the defendant personally in open court and informed the defendant of the admonishments under Rule 11 of the Federal Rules of Criminal Procedure. The Magistrate Judge determined that the defendant was competent to plead guilty and fully understood said admonishments.

The defendant entered a plea of guilty to the offense of willfully and knowingly did export and send merchandise, to wit: a Diamondback Arms, Inc., semi-automatic pistol, model DB-15, 5.56 caliber, serial number DB1594494, from the United States, contrary to the laws and regulations of the United States, to wit: Title 50, United States Code, Section 4819 and Title 22, United States Code Section 2778(b)(2). In violation of Title 18, United States Code, Section 554 and Title 18, United States Code, Section 2 as charged in COUNT TWO of the Indictment. No

plea agreement was entered. The Court explained to the defendant that **he** would be subject to sentencing pursuant to the Sentencing Guidelines promulgated by the United States Sentencing Commission. The Court also explained that parole had been abolished and that the defendant could receive a term of supervised release. The Court explained the range of punishment with regard to imprisonment, fines, restitution, supervised release, and the statutory fee assessment pursuant to the Victim of Crime Act.

The Magistrate Judge finds the following:

- 1) The defendant, with the advice of **his** attorney, has consented orally and in writing to enter this guilty plea before the Magistrate Judge, subject to final approval and sentencing by the District Judge;
- 2) The defendant fully understands the nature of the charges and penalties;
- 3) The defendant understands **his** constitutional and statutory rights and wishes to waive these rights;
- 4) The defendant's plea is made freely and voluntarily;
- 5) The defendant is competent to enter this plea of guilty; and
- 6) There is an adequate factual basis for this plea.

RECOMMENDATION

The Magistrate Judge RECOMMENDS that the District Judge accept the plea of guilty and, after reviewing the presentence investigation report, enter final judgment of guilt against the defendant.

WARNINGS

The parties have fourteen (14) days from the date of being served with a copy of this Report and Recommendation within which to file written objections, if any, with the United States District Judge. 28 U.S.C. § 636(b)(1). A party filing objections must specifically identify

those findings or recommendations to which objections are being made. The District Judge need not consider frivolous, conclusive, or general objections. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

If any party fails to timely object to any factual or legal findings in this Report and Recommendation, the District Judge is not required to conduct a *de novo* review of the record before adopting those findings. If the District Judge chooses to adopt such findings without conducting a *de novo* review of the record, the parties may not attack those findings on appeal, except upon grounds of plain error. *Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017).

The Clerk is directed to send a copy of this Report and Recommendation to all parties.

SIGNED this 17th day of May, 2023.

A handwritten signature in black ink, appearing to read "Ronald G. Morgan", is written over a horizontal line.

Ronald G. Morgan
United States Magistrate Judge